

STEPTOE & JOHNSON LLP

ATTORNEYS AT LAW

1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036-1795

PHOENIX, ARIZONA
TWO RENAISSANCE SQUARE

TELEPHONE: (602) 257-5200
FACSIMILE: (602) 257-5299

(202) 429-3000

FACSIMILE: (202) 429-3902

TELEX: 89-2503

STEPTOE & JOHNSON INTERNATIONAL
AFFILIATE IN MOSCOW, RUSSIA

TELEPHONE: (011-7-501) 258-5250
FACSIMILE: (011-7-501) 258-5251

SARA BETH WATSON
(202) 429-6460

CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY

April 10, 1996

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Damaris Cristiano, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
Region II
290 Broadway
New York, New York 10007-1866

RECEIVED

APR 16 1996

Re: SCP/Carlstadt Superfund Site De Minimis
Settlement -- Waste Volumes Schenectady
Chemicals, Inc.

Dear Ms. Cristiano:

I am writing to follow-up our conversations regarding the alleged waste-in amount for Schenectady International (formerly Schenectady Chemicals, Inc.) at the SCP/Carlstadt site, 216 Paterson Plank Road, Carlstadt, New Jersey (SCP/Carlstadt). Attached is a letter from William P. Willig, Schenectady's attorney, to James Rooney, Office of Regional Counsel, USEPA Region II, that details the shipments from Schenectady to both the SCP/Newark and SCP/Carlstadt sites. This information was submitted to Mr. Rooney in February 1992. Schenectady believed that the issue regarding the waste-in amount to the SCP/Carlstadt site was resolved in 1992 after the receipt of this information; and therefore, was surprised to see a significantly higher number on the waste-in list you sent to me in December 1995.

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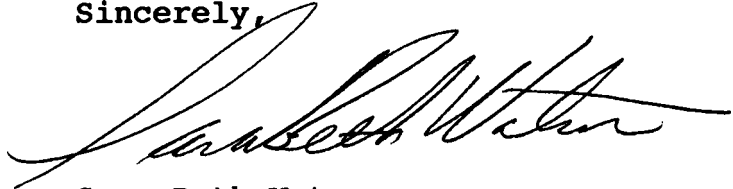


Damaris Cristiano, Esq.
April 10, 1996
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I believe the attached addresses your questions regarding Schenectady's alleged waste-in amount at the SCP/Carlstadt site. After you have reviewed the enclosed, please contact me at the above number with any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sara Beth Watson", written in dark ink.

Sara Beth Watson

cc: Elizabeth Yu, Esq.
Department of Justice

Richard Puvogel
U.S. EPA Region II

Dr. Robert Yunick
Schenectady International

William P. Willig, Esq.

WILLIAM P. WILLIG

ATTORNEY AT LAW

78-78 EAST HIGH STREET

P.O. BOX 488

BALLSTON SPA, NEW YORK 12020

TELEPHONE (518) 885-1585

FAX (518) 885-8481

Handwritten:
I am to enclose
except Kohane is
2/27 2/16
mailed 2/28 to
all

February 27, 1992

**James P. Rooney, Esq.
Supervisory Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency
Region II
26 Federal Plaza
New York, New York 10278**

**Re: Scientific Chemical Processing Sites-Newark and Carlstadt, New Jersey -
Waste Volumes of Schenectady Chemicals, Inc.**

Dear Mr. Rooney:

This letter will respond to yours of August 15, 1991 pertaining to the above sites.

The purpose of this letter is to review all known existing evidence pertinent to the volume of Schenectady Chemicals, Inc. waste delivered to the above sites, and to confirm, in particular, the waste volume attributable to Schenectady Chemicals, Inc. (hereinafter "SCI") at the Carlstadt site on Paterson Plank Road, Carlstadt, New Jersey.

Our records * indicate that a total of 74 shipments of waste from SCI were made both to the Newark and Carlstadt sites from April 4, 1977 through February 22, 1979, (although SCI's initial information was that all of them went to Newark).

* After extensive investigation, the SCI records found regarding these sites consist of the following:

- a. SCI shipping orders, bills of lading, invoices and checks; and SCP invoices and shipping orders; these were the documents used by Dr. Robert P. Yunick in submitting waste volume certification to the Steering Committees on October 17, 1986 and to Clean Sites, Inc. on July 12, 1990.
- b. SCI records from H. Donald Hornberger's files used in his response to an EPA Notice in 1981, which were discovered by Dr. Robert P. Yunick in late December, 1990.
- c. SCI records produced by John Soron to Andre Bourgeois on October 22, 1981 as the result of SCI being served with a subpoena by a U.S. Postal Inspector on October 20, 1981.
- d. New Jersey Department of Environmental Protection, Special Waste Manifests furnished by Steering Committee Common Counsel, William Warren (and Susan Hoffman), and also certain manifests furnished by you in previous correspondence.
- e. Miscellaneous SCI corporate records.

The evidence known to date indicates that 67 of these shipments went to the Newark site, and that the other 7 shipments went to the Carlstadt site. These shipments will be discussed in more detail later in this letter. They are set forth on separate schedules enclosed herein (Schedule A sets forth the Carlstadt shipments; and Schedule B sets forth both the Newark and Carlstadt shipments. Schedule A recites the February 10, 1978 transaction mentioned in your August 15, 1991 letter; and SCI now has located the documents which describe and confirm the facts of that shipment as one to Carlstadt).

Your aforesaid letter devotes considerable text to what might appear as conflicting statements by SCI, particularly those made prior to its discovery of additional documents which were found in the possession of a corporate officer who is rarely involved in environmental matters.

Early on, at a meeting in EPA headquarters in New York City on February 27, 1985, I met with Janet Feldstein, and she could not produce a single document from the EPA file which then connected SCI with the Newark site.

While your above cited letter hints at possible deception by SCI of the agency regarding its connection with the Newark site, none actually occurred, nor was any ever intended, since SCI, despite the lack of connecting evidence then, nonetheless voluntarily participated as a PRP through the Steering Committee and paid its allocated share at the Newark Site. SCI signed and filed its consent to a proposed consent decree in March of 1985 under the threat of a unilateral administrative order which carried sanctions of \$5,000.00 per day and treble damages. It co-operated with the Newark Steering Committee, its Common Counsel and the named PRPs in achieving a settlement with the agency and each other.

When delisting by the agency came on February 10, 1988, it meant virtually nothing to SCI, because all of its payments as a PRP had already been made to the Steering Committee, and it elected, for its own reasons, not to seek a refund, particularly since, at that time, its ongoing investigation revealed much of the evidence connecting it to the Newark site which is recited in summary form on Schedule B enclosed.

In late December, 1990, soon after SCI's waste volume certification to Clean Sites, Inc. for allocation purposes among the participating PRP's, the missing records at SCI were innocently discovered. Until then, SCI had, in good faith, argued what any other PRP named at a site in apparent error would argue under the same circumstances, i.e., that it was not properly named as a party since no known evidence connected it to the site.

It can readily be seen, therefore, that while your letter mentions that SCI was delisted from the Newark site, for the reasons given above, it should be clearly understood by the agency that for purposes of allocating SCI's wastes between the two sites, delisting by agency had no practicable significance for SCI whatsoever.

For obvious reasons, in this context, any further discussion or quotations regarding SCI's early statements regarding its records on its lack of connection to the Newark site, given the above context, serves only to confuse rather than clarify the issue of waste allocation.

As a part of an extensive, detailed analysis and ongoing investigation, SCI has now assembled, and I have carefully reviewed all of the known evidence regarding their shipments to date to both sites. This review and analysis includes a comprehensive review of all documents known to exist (manifests, invoices, bills of lading, checks and other relevant corporate records) which were prepared at anytime prior to 1980 and which would relate to any waste pickups from SCI pursuant to SCP's transactions during the 1970's.

A chronological statement of all shipments between SCI and SCP are set forth on Schedule B; and the 7 confirmed deliveries to the Carlstadt site are set forth in detail on Schedule A. Schedule B confirms that of the 74 shipments which occurred, 67 were delivered to the Newark site containing a volume of 280,113 gallons; and that 7 such shipments were delivered to the Carlstadt site containing a total of 32,799 gallons. These respective volumes, based upon the documentary evidence recited above, is certified to by the SCI corporate officer most knowledgeable in the company on environmental matters, including corporate waste disposal practices and existing corporate records pertaining to these sites and shipments there. This compilation of records and detailed analysis is furnished after extensive search, examination and review, and represents, we believe, the most definitive statement possible on this subject.

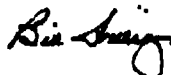
We are currently participating as a member of the SCP/Carlstadt De Minimis subgroup in discussions with the Executive and Allocation Committees of the main PRP group headed up by William Warren as Common Counsel; and we expect a decision will be made very soon (probably by March 3, 1992) regarding a De Minimis settlement proposal to be made to the agency. Since SCI's waste volume at the Carlstadt site is but 32,799 gallons of a total volume for the site, SCI hopes to participate in this proposal.

SCI regrets as much as anyone the delay and confusion which has occurred to date, but after your careful review of the enclosed information and the documents which I will bring to our meeting, we sincerely believe that all questions regarding SCI's waste volume at these sites will be resolved and put to rest. I ask that you permit me to meet with you soon so that I may bring to our meeting the documentary evidence which substantiates Schedules A and B enclosed.

Given SCI's "track record" as a settlor at the many sites supervised by the agency out of Region II (e.g. Newark, Carlstadt, Lone Pine, PAS/Main Site and Satellites), we feel that SCI deserves such a meeting soon as well as your close attention.

Thank you for your attention to the foregoing and we await your early reply.

Very truly yours,



William P. Willig

WPW:kmd

Enclosures

cc: Dr. Robert P. Yunick
William Warren, Esq./Susan Hoffman,
Common Counsel for Carlstadt Steering Committee
James J. Kohanek, Esq., Clean Sites, Inc.

Schedule A

Re: SCI/SCP - Carlstadt Waste Shipments

(4/4/77 - 2/22/79)

<u>Shipment</u>	<u>Date</u>	<u>Container</u>	<u>Volume (in Gallons)</u>	<u>NJ DEP Manifest Confirming Delivery</u>
1	2/10/78	1 Tank Wagon (Chemical Leaman)	3,219	A 15897
2	5/16/78	88 drums	4,840	A 34175
3	6/6/78	1 Tank Wagon	5,000	A 15807
4	6/9/78 & 6/14/78 (Delayed Arrival)	1 Tank Wagon	5,395	A 15806
5	7/13/78	79 Drums	4,345	A 15897
6	8/22/78 - 8/25/78 (Delayed Arrival)	1 Tank Wagon	5,000	A 82408
7	2/22/79	1 Tank Wagon	<u>5,000</u>	A 33690
<u>Total</u>			<u>32,799</u>	

Schedule B

Re: SCI/SCP - Newark and Carlstadt Shipments Combined

(4/4/77 - 2/22/79)

<u>Shipment Number</u>	<u>Date</u>	<u>*Site</u>	<u>Volume (in gallons)</u>
1	4/4/77	N	3,850
2	4/4/77	N	550
3	4/5/77	N	5,135
4	4/6/77	N	4,125
5	4/6/77	N	275
6	4/7/77	N	3,575
7	4/7/77	N	825
8	4/20/77	N	5,000
9	4/26/77	N	5,000
10	4/29/77	N	5,522
11	5/4/77	N	5,902
12	5/9/77	N	5,000
13	5/10/77	N	5,000
14	5/16/77	N	5,722
15	5/20/77	N	5,000
16	5/23/77	N	5,000
17	5/25/77	N	4,290
18	5/26/77	N	4,290
19	6/1/77	N	5,313
20	6/3/77	N	5,063
21	6/3/77	N	4,400

*C=Carlstadt

N=Newark

22	6/3/77	N	440
23	6/6/77	N	5,000
24	6/7/77	N	5,388
25	6/9/77	N	5,000
26	6/13/77	N	5,900
27	6/16/77	N	5,983
28	6/20/77	N	3,850
29	6/20/77	N	550
30	6/22/77	N	5,000
31	7/25/77	N	4,840
32	7/27/77	N	4,730
33	8/2/77	N	4,400
34	8/4/77	N	4,785
35	8/5/77	N	4,620
36	8/12/77	N	4,345
37	8/17/77	N	4,125
38	8/24/77	N	4,125
39	8/30/77	N	4,840
40	9/1/77	N	4,400
41	9/6/77	N	4,345
42	9/9/77	N	4,400
43	9/13/77	N	4,290
44	9/20/77	N	4,400
45	9/27/77	N	4,290
46	9/28/77	N	4,345
47	10/5/77	N	4,345
48	10/6/77	N	4,345

49	10/11/77	N	4,510
50	11/2/77	N	3,795
51	11/2/77	N	605
52	11/4/77	N	3,960
53	11/4/77	N	440
54	11/10/77	N	4,345
55	11/21/77	N	4,400
56	12/16/77	N	4,345
57	1/6/78	N	4,345
58	2/1/78	N	4,345
59	2/2/78	N	4,400
60	2/10/78	C	3,219
61	2/17/78	N	4,345
62	2/21/78	N	4,180
63	2/28/78	N	4,290
64	3/2/78	N	4,730
65	3/2/78	N	4,290
66	3/6/78	N	4,840
67	4/11/78	N	3,740
68	5/16/78	C	4,840
69	6/6/78	C	5,000
70	6/9/78 & 6/14/78	C	5,395 (Delayed Shipment)
71	7/13/78	C	4,345
72	8/14/78	N	4,290
73	8/22/78 & 8/25/78	C	5,000 (Delayed Shipment)
74	2/22/79	C	5,000

A. Carlstadt total: 32,799
B. Newark total: 280,113

Total of both sites 312,912